

1 KEKER & VAN NEST, LLP
2 DARALYN J. DURIE - #169825
3 CHRISTA M. ANDERSON - #184325
4 DAN JACKSON - #216091
5 ROSE DARLING - #243893
6 710 Sansome Street
7 San Francisco, CA 94111-1704
8 Telephone: (415) 391-5400
9 Facsimile: (415) 397-7188

10 Attorneys for Defendants
11 THE GAP, INC., a/k/a, GAP, INC., GAP INTERNATIONAL
12 SALES, INC., BANANA REPUBLIC, LLC, AND OLD NAVY,
13 LLC

14 UNITED STATES DISTRICT COURT
15 NORTHERN DISTRICT OF CALIFORNIA
16 SAN FRANCISCO DIVISION

17 ROOTS READY MADE GARMENTS CO.
18 W.L.L.,

Case No. C 07-03363 CRB

19 Plaintiff,
20 v.
21 THE GAP, INC., a/k/a, GAP, INC., GAP
22 INTERNATIONAL SALES, INC., BANANA
23 REPUBLIC, LLC, AND OLD NAVY, LLC
24 Defendants.

25 **DECLARATION OF ROSE DARLING IN
26 SUPPORT OF DEFENDANTS' MOTION
27 FOR PROTECTIVE ORDER**

28 Date: July 11, 2008
Time: 10:00 a.m.
Dept: Courtroom 8, 19th Floor
Judge: Honorable Charles R. Breyer

1 1. I am an attorney licensed to practice law in the State of California and before this
 2 Court and am an associate at Keker & Van Nest, LLP, counsel for defendants The Gap, Inc.,
 3 a/k/a, Gap, Inc., Gap International Sales, Inc., Banana Republic, LLC, and Old Navy, LLC
 4 (collectively “Gap”).

5 2. On May 21, 2008, Roots served Gap with a notice of deposition for Donald
 6 Fisher, Gap’s founder and former CEO and Chairman. Attached hereto as **Exhibit A** is Mr.
 7 Fisher’s deposition notice.

8 3. Donald Fisher, age 79, is the founder of Gap Inc. He is Chairman Emeritus and a
 9 director of Gap Inc. He served as Gap’s Chief Executive Officer from 1969 to 1995, and
 10 Chairman of the Board from 1969 to 2004. Attached hereto as **Exhibit B** is a true and correct
 11 copy of a printout from

12 <http://www.forbes.com/finance/mktguideapps/personinfo/FromMktGuideIdPersonTearsheet.jhtml?passedMktGuideId=21360>, which identifies Mr. Fisher’s roles at Gap.

14 4. On May 23, 2008, I sent a letter to Roots’ counsel requesting that Roots withdraw
 15 its notice to Mr. Fisher. A true and correct copy of my letter is attached hereto as **Exhibit C**. In
 16 that letter, I told Roots that Mr. Fisher has no relevant knowledge of Gap’s business with Roots.

17 5. On June 12, 2008, I received a letter from Roots’ counsel, Brad Nash. In that
 18 letter, Mr. Nash incorrectly claimed that Mr. Fisher was “personally involved in Gap’s
 19 relationship with Roots.” In particular, he stated that Roots wished to depose Mr. Fisher based
 20 on a brief conversation that took place when Roots’ CEO Ashraf Abu Issa was introduced to Mr.
 21 Fisher. Based on that inconsequential meeting, Mr. Nash claimed that Mr. Fisher had knowledge
 22 of “the success of Roots’ ISP operations in Qatar and the UAE, and the future business
 23 relationship between Roots and Gap.” A true and correct copy of Mr. Nash’s June 12 letter is
 24 attached hereto as **Exhibit D**.

25 6. Despite the fact that Mr. Fisher has no relevant personal knowledge about Roots’
 26 business with Gap or the facts at issue in this case, Roots refused to withdraw Mr. Fisher’s
 27 deposition notice. Gap was thus forced to bring a motion for protective order. The parties
 28 agreed on a shortened briefing schedule for this motion.

7. Attached hereto as **Exhibit E** are true and correct copies of excerpts from the transcript of the deposition of Ashraf Abu Issa, dated June 6, 2008.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this Declaration was executed on June 30, 2008 at San Francisco, California.

1

/s/ Rose Darling

ROSE DARLING

10

11

12

12

14

2

21

22

23

24

25

26

27